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Title of Article:
New and Not So New Notions: The Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes, The Basic Ombuds Model, and its Set of Basic Ombudsing Principles/Considerations_

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I. A. Prologue

"It is the valuable contributions of pioneer ombudsmen, ombuds scholars, and those who have walked within the profession before me that have laid the foundation of understanding from which I draw meaning, purpose, guidance, appreciation, and inspiration. The elders pass along fire from the torch they've kept lit for thirty years and light my torch, offering support, mentorship, and guidance. I begin to carry on their tradition. A tradition marked by a passionate pursuit of a profound sense of life's purpose as a peacemaker-part of which has to do with ombudsing and ombuds scholarship, and part of which entails a life lived outside of the office.

Inspired by the mentorship of Stanley V. Anderson, it is my hope to continue on with his tradition of fostering a greater understanding of ombudsing through research and writing for journal publications" (Kelly, 2003).

I.B. Catch-up with ombudsmania[1]

Over the past forty years, the field of ombudsing has grown faster than ombuds scholars have been able to keep up with. As a consequence, the art and science of ombudsing as defined through ombuds scholarship has yet to reach its fullest potential. Although great strides have been made with regard to understanding the history and dissemination of the concept in early modern ombuds history, as well as the nature of these ombudsing systems/schemes[2], much work remains. In the late 60's and early 70's the ombuds concept was

[1] Ombudsmania is a term created by Stanley V. Anderson. The term was associated with a period of ombuds history where the concept spread at an extremely rapid rate across the globe, and began to be implemented in sectors outside of the 'traditional' government setting (Anderson, 2003).

[2] Ombudsing "system/scheme" refers to the sum total of all theoretical elements associated with an individual ombuds operation.

adopted at an astonishing rate by non-governmental institutions. The phenomenon was coined ombudsmania by ombuds scholar Stanely V. Anderson (Anderson, 2003). Anderson likened the ombuds diversification unto "garden variety" ombuds (Anderson, 2002).

This work marks a response to the perceived need for ombuds and ombuds scholars to play some serious "catch-up" with ombudsmania in order to bring an understanding of ombuds systems/schemes and the dissemination of the concept up to date. After digesting a sizeable portion of existing ombuds literature[3] I was struck by a profound sense of what seemed to be missing in the theoretical mix of ombudsing given the existing body of knowledge. In *Reflections of a Budding Ombuds: The First Two Years* (Kelly, 2002) a section appears that outlines some of the elements one "hungers" for after attempting to satiate one's 'ombuds understanding' appetite by digesting a gallimaufry of existing ombuds literature (Kelly, 2003).

This work presents the development, description, and illustrative use of two neoteric theories that were developed in response to seeking to satiate this personal ombuds understanding appetite. This theory builds upon the foundation of understanding cultivated by first generation ombuds scholars. The theories are entitled *The Parallel Socio-Cultural Evolution of Ombudsing Systems/Scheme*[4], and *The Basic Ombuds Model, and its Set of Basic Ombudsing Principles/Considerations. The Parallel Socio-Cultural Evolution of*

[3] To obtain a good overview with regard to what exists in way of ombuds scholarship/literature visit the Stanley V. Anderson Program & Library and the Ombudsman's Reading and Resource Room located online at the UCSB Ombuds Office website. These resources do not articulate all ombuds scholarship that presently exists, but the resources do provide a good snapshot of available resources. The UCSB Ombuds Office web address is: <http://www.sa.ucsb.edu/ombuds/ > (9 Oct. 2003)

[4] "ombudsing system/scheme" refers to the complex whole of an ombudsing entity that is comprised of the sum total of its known/unknown interacting, interrelated, and/or interdependent elements. Scheme is used in conjunction with system in that this work is written for an international community of ombuds. Scheme is a term utilized in the United Kingdom when defining ombuds entities.

Ombudsing Systems/Schemes theory suggests that the fundamental (quintessential[5]) components of ombudsing systems/schemes are universal: hence the probability that the ombuds concept did not evolve from the singular Swedish source (popular view), but rather has developed in parallel in several cultures. *The Basic Ombuds Model* theory breaks the complexity of ombudsing systems/schemes down into four fundamental components: the complaint handler, the complainant (and the potential of an associated "respondent", or source of complaint), a moral/spiritual tenet, and an entity. The first four components are identified as elements that can be held ceteris paribus[6], and the fourth element is identified as the variant one uses as a foundation for studying the different forms of ombudsing systems/schemes. *The Basic Ombuds Model* can be likened to the bare bones of an ombudsing system/scheme. *The Set of Basic Ombudsing Principles/Considerations* comprises the totality of the other elements that puts the life into the model. *The Set of Basic Ombudsing Principles/Considerations* goes hand in hand with the *Basic Ombuds Model.* They comprise the elements one would assess when attempting to determine how ombudsing systems/schemes differ within different institutional settings. It is my impression that these tools will not only enable ombuds to work toward playing serious "catch-up" with ombudsmania, but will lead to the development of ombuds theory suited for teaching in higher education institutions; provide the greater ombuds community with the tools necessary to effectively assess, evaluate, and refine the ongoing ombuds categorization work

[5] Quintessential Ombuds refers to stripping the modern ombuds system/scheme of its complexity, and breaking it down to its fundamental elements, its essence, its purest expression.

[6] The term ceteris paribus signifies "With all other factors or things remaining the same" (Dictionary.com, 2003). The term is utilized her to indicate that the Basic Ombuds Model has expressed existing ombuds theory in a new way that enables scholars to "hold constant" certain components while measuring/quantifying/qualifying how ombuds systems/schemes vary when considering the one fundamental component that differs between schemes. The subset of considerations to evaluate when studying the "garden variety" ombuds system/schemes is defined as The Set of Basic Ombudsing Principles/Considerations. The Set is defined in greater detail in "The Nuts & Bolts of Ombuds Theory" (Kelly, 2003).

spearhead by the American Bar Association; and will set the stage for intensive study in the area of ombuds diversification/evolution. Additionally, it is my hope that the work will facilitate reduction of exclusionary tendencies established in the early 70's with regard to what constitutes a 'real' ombuds. Cultivation of a common theoretical language readily understood, accepted, and taught by ombuds scholars, ombuds practitioner/scholars, and ombuds practitioners, holds the potential to enhance ombuds practices, and to improve communication amongst ombuds, thereby contributing to the betterment of humanity by refining the peacemaking process of ombudsing.

I. THE PARALLEL SOCIO-CULTURAL EVOLUTION OF OMBUDSING SYSTEMS/SCHEMES

The *Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* theory emerged as a by-product of research conducted to establish a theoretical base upon which to build my ombuds practice. The specific area of focus from which this theory surfaced was the area of ombuds history. After digesting existing literature pertaining to ombuds history, I allowed curiosity to be my guide, searched for the origins of ombudsing, and began to conduct the research necessary to seize an understanding of the pre-history evolution of the ombuds concept. In considering the pre-history evolution of ombudsing possibilities, I stripped the modern ombudsing system/scheme of all of its complexities and searched for its quintessential essence as defined by its fundamental form. In that the art/science of ombudsing is a peacemaking process, I began to search for the origins of ombudsing

by searching for the origins of conflict itself. I reworked the refined portrait of the modern ombuds, by softening, distilling, and smudging the edges of the information. With use of broad gesture strokes I re-expressed the modern as primitive to create a form conducive to the task at hand. The gesture strokes I placed on the blank canvas included the presence amidst conflict (impartial third party); a moral/spiritual tenet; the use of language for the arts of storytelling, asking questions, and listening; the presence of an entity; and the presence of complaint handlers/complainants (which implies the existence of a respondent). Utilizing common sense, and confirming common sense via discourse with colleagues, I drafted a sense of the order in which these elements might have emerged as humanity evolved. Through use of existing theories pertaining to the origins of conflict, the origins of language, and the origins of ethics, I was able to confirm my educated guesses, satiate my curiosity, and began to fill in the blanks of history with educated/informative speculation. What emerged from the pre-history meditation/consideration, was an awareness that the quintessential form of ombudsing is universal, and that as humanity evolved, ombudsing evolved with it, resulting in the occurrence of a *Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* (as opposed to the concept disbursing and evolving from a single country/single office, e.g., Sweden). Following is a synopsis of the research that led to the development of this theory, and preliminary findings that support the likeliness of such an occurrence.

The information is not meant to be conclusive, but rather, is intended to introduce nascent theory to the greater ombuds community, to lay the groundwork for further research, and to set the stage for *The Basic Ombuds Model.*

A. PRE-HISTORY OMBUDSING: THE QUINTESSENTIAL OMBUDS[7]

1. The Presence Amidst Conflict

In searching for the roots of the ombuds system/scheme one searches for the roots of conflict and finds it to be older than the human species itself. Where there is conflict there is opportunity for conflict resolution and this too predates humankind. This notion is supported by contemporary studies of our closest relatives, the primates. Research conducted by Frans de Waal, presented in his book *Peacemaking Among Primates* suggests that making peace is as natural as making war (Waal 1989, 7). On the benign edge of the spectrum primate disputes involve threats, chasing, and screaming. More vicious encounters result in high-intensity attacks with fierce biting. On the most brutal edge of the warring spectrum primate conflict produces severed digits, genital mutilation, and even death (Waal 1989, 73-75). It is comforting to note that nature has also built in a balance. "Peacemaking" in primates is evidenced by reconciliatory actions. Chimpanzees "kiss and make up" (Waal 1989, 42), rhesus monkeys brush against each other in contact passes (Waal 1989,

[7]

115), and stump-tailed monkeys "hold-bottom" (Waal 1989, 163-165). Other reconciliatory actions include the gesture of an outstretched hand (Wall 1989, 213), hugging (Waal 1989, 41), grooming (Waal 1989, 64), and sexual contact (Waal 1989, 149-154). One chimpanzee, a dominant male, was documented illustrating the act of third party intervention by standing in-between screaming parties until calm was restored (Waal 1989, 64). He was a peacemaker-a natural presence amidst conflict[8] providing me with an illustration of what the earliest form of ombudsing might have looked like in the unwritten annals of humanity's history.

2. The Arts of Listening, Storytelling, Asking Questions

As human kind evolved it follows that he/she built upon the natural impulse for peacemaking. The art of peacemaking evolved and diversified to produce the plethora of dispute resolution that exist today. Forms such as: arbitration, mediation, minitrials, negotiation, facilitation, conciliation, fact finding, "talking stick" council circles, restorative justice, ombudsing, and Ho'oponopono[9] (CPR 2002, Huna.com 2003, Mediate.ca 2002, Morris 2002, Reiger 2002). Research in the field of anthropology, although not conclusive, indicates that the

[8] The phrase "presence amidst conflict" signifies an early form of the neutral/impartial third party present in alternative dispute resolution systems.

[9] Ho'oponopono is an ancient alternative dispute resolution process developed by the indigenous peoples of the Hawaiian Islands. It means "to make right".

evolution of language occurred relatively early in humanity's history, and consequently, given the quintessential components of ombudsing, endowed humanity with the capacity to take the next ombuds evolutionary step.

Following are a few examples drawn from several anthropologists' work that links the development of language to initial impulses within the unwritten annals of humanity's history. The examples are provided as background information and to support the suggestion that development of language was the most probable next evolutionary step for the ombuds concept.

a. Dean Falk

Due to common ancestry, anthropologist Dean Falk utilizes primates as a model for developing an understanding of the earliest forms of language. Falk suspects that human mothers turned to right brain activity (the creative hemisphere) to communicate with their babies, and humming, as an early form of language, became a way of fostering closeness to their offspring (Volkert 2002).

b. Robin Dunbar

In addition, the language evolution theory of Robin Dunbar, also indicates that language may have developed relatively

early in the evolution process. Dunbar suggests that language/gossip developed as a more efficient social grooming substitute functioning to strengthen social bonds as well as to increase cooperation in large groups (Dunbar 1996).

c. Terrence Deacon

Biological anthropologist, Terrence Deacon's work, presented in his book *The Symbolic Species,* suggests that language is an innovation which occurred when humans became hunters, and that language and the brain coevolved. Language became a way to establish social contracts fostering stability in family and group structures setting the stage for two million years of evolutionary adaptation (Deacon 1997).

With the development of language, the logical next evolutionary step for the *presence amidst conflict* would be to add the *arts of storytelling, listening, and asking questions* to the mix of pre-history ombudsing technique. At this phase in pre-history, prior to the creation of law, prior to the development of spiritual/moral precepts, prior to the development of organizations, it is conceivable that the earliest forms of ombudsing were akin to mediation. That is to say, the presence amidst conflict began to

listen to disputants' stories, began to ask questions, and facilitated resolution.

3. Ethics

Given the two remaining components of the quintessential form of ombudsing, ethics, and entities, an obvious next evolutionary step emerges. Ethics, which is viewed as the pulse of the ombuds practice by some scholars, is the most likely component to have developed in pre-history ombudsing. The Encyclopedia Britannica defines ethics as "The discipline of philosophy concerned with what is morally good and bad, right and wrong; also system or theory of moral values" (Encyclopedia Britannica 2003). The American Heritage Dictionary defines morality as: "1.The quality of being in accord with standards of right or good conduct. 2 .A system of ideas of right and wrong conduct: religious morality…"(American Heritage Dictionary 2000).

Although there is not a consensus amongst scholars pertaining to the origins of ethics, some theory suggests that ethics may have evolved out of our animal social instincts (Kropotkin, 1998), hence the likelihood of ethics evolving prior to formal entities. Doris Schroeder, in her article "Evolutionary Ethics", summarizes key figures and key concepts pertaining to the evolution of ethics. In her work she explains that "Evolutionary Ethics" explores the

relationship between natural selection and behavior. Morality is presented as an automatic social evolution as opposed to the result of divine revelation or development and utilization of reasoning faculties. (Schroeder 2002). Schroeder states that morality is "interpreted as a useful adaptation that increases the fitness of its holders by providing a selective advantage" (Schroeder 2002). Schroeder points out, that Edward Wilson, the innovator of sociobiology, presents theory that harmonizes with "Evolutionary Ethics". Schroeder summarizes some of Wilson's writing as follows:

> "The hypothalamus and limbic system ... flood our consciousness with all the
>
> Emotions – hate, love, guilt, fear, and others – that are consulted by ethical
>
> Philosophers who wish to intuit the standards of good and evil. What, we are then compelled to ask, made the hypothalamus and the limbic system? They evolved by natural selection. That simple biological statement must be pursued to explain ethics" (Schroeder 2002).

Although caveats exist in relation to these theories, enough information is gathered to suggest that concepts of morality became woven into emerging culture as a consequence of several

factors including: the development of humanity's reasoning capabilities, cultivation of an awareness of (and communion with) expressions of the spirit, and humanity's evolving social and biological expressions. At this point, it is conceivable that the next evolutionary step taken by the pre-history ombuds was to add another tool to his/her toolkit: the awareness of what constitutes an ethical (or fair) outcome/process, and the ability to use reasoned persuasion to advocate for such an outcome.

4. Entities/Organizations, Complainants, Complaint Handlers

By default, the final component of the quintessential ombuds expression to emerge would be the organizational element. As humankind began to create formal systems to organize religious, cultural, political, legal, business, and other operations, humanity began to have relationships with these entities. Humankind began to interact with these entities, and undoubtedly encountered situations that led to the formulation of complaints. Citizens voiced their complaints becoming the quintessential ombuds "complainant". Consequently, the need arose for someone such as the presence amidst conflict questioning, listening to stories, and advocating for a fair outcome to handle complaints, to become a complaint handler completing the quintessential ombuds portrait. It is at this point that the edges between pre-history and existing history soften, and one is able

to resort to other than educated speculation with regard to the evolution of the ombuds concept.

B. WRITTEN 'QUINTESSENTIAL OMBUDS' HISTORY

1. Early Forms

Drawing from existing ombuds literature one learns that complaint handlers appeared in many different societies:

- Egyptian kings utilized complaint handlers in their courts (Caiden, MacDermott, Sandler 1983, 9)
- Moses appointed grievance officers to handle the complaints of Hebrews (Caiden 1983, 9)
- Two censors in the Roman Republic received complaints of alleged maladministration (Ferris, Goodman, Mayer 1980, 3)
- In the Middle Ages intermediaries between the public and businesses, churches, and government were common (Caiden, MacDermott, Sandler 1983, 9)
- In medieval Europe an intercessor's office was often provided by the Christian church to intercede between subject and prince and between serf and feudal lord (The Victorian Ombudsman, 2003)
- In medieval Spain, the kingdom of Aragon had a position called the *Justicia de Aragon.* (Lundvik 1982, 85)

- In the Ts'in dynasty, China created the *Control Yuan* (Lundvik 1982, 85)
- Although I've yet to assess information pertaining complaint handling within indigenous cultures, one author points out that "Navajos have used peacemakers for centuries…", and "Many African tribes have shamans who intervene when disputes arise" indicating that complaint handlers undoubtedly existed among the indigenous cultures (Elkins-Elliot, 2003).

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Unfortunately, when attempting to acquire an in-depth understanding of the aforementioned complaint handling systems I was not able to locate more than a sentence or two about each within existing ombuds scholarship. It is my hope, in the future, with guidance from my mentors, to resume the search. It is my belief that gathering such information will contribute to fostering a better understanding of the evolution of ombudsing. One complaint handling form I was able to gather more than one or two sentences of information about was the form with Islamic roots.

2. Islam

The Prophet of Islam, Mohammed, developed a system of accountability known as 'Hisab'. Mohammed, as well as his companions, held both their public and private lives accountable to the community. (Pakwatan.com, 2003). After the death of

Mohammed the Second Caliph, Omar (634-644) built upon this work by introducing specific administrative checks and balances. Omar allowed citizens to complain to him. As the notion of complaint handling developed, citizens later complained to a specially created complaint-handling agency. In addition, Caliph Omar created the institution of Muhtasib. It was within the framework of 'Hisab' that the Muhatsib had complete independence, was a dispute settler, and functioned as the guardian of public morals (Pickl, 1987). At this point we draw close to what the majority of scholars perceive as the origin and birth of the modern ombuds system/scheme. The writings of Viktor Pickl, and Ibrahim al- Wahab suggest that an Islamic system of justice may be the root source for the modern ombuds model: a point that is not broadly accepted (and perhaps known), by ombuds scholars, and ombuds practitioners (al-Wahab 1979, 24; Pickl 1987).

3. Sweden

In 1709 King Charles XII of Sweden was defeated by the Russians and fled to Turkey. He remained in self-exile until he left Turkey in 1714 (Svantesson 1998). At the time there was a Turkish office of Chief Justice called "Quadi al Qudat" that was (and still is) finely integrated within the Islamic system of justice. The Quadi al Qudat served to protect the public from injustice and officials'

power abuse. Ombuds scholar Viktor Pickl suggests that King Charles XII had knowledge of the office. It follows that knowledge of this office could very well have influenced King Charles decision making process when problem solving for the unrest and disorder that had broken out in his absence (Pickl, 1987).

During King Charles XII absence unrest and disorder broke out in Sweden. In 1713 King Charles XII ordained the creation of an office to aide in the restoration of order (Pickl 1987). At this time he had been abroad for 13 years. The office was to be headed by a person with the title of The Highest Ombudsman whose duty was to ensure officials carried out their obligations and obeyed the law. The power held by the Highest Ombudsman was the right to prosecute officials found at fault (Gottehrer 2000, Swanström 2001).

The position of the Highest Ombudsman was a prototype for the Justitieombudsman (JO) created in 1809. In 1809, when Swedish King Gustavus Aldophus was dethroned, constitutional reform took place resulting in a new constitution "based on the principle of balance of power between the King and Riksdag[10]" (Swanström 2001). The constitution allowed for the Ricksdag to elect a man of

[10] Riksdag means National Assembly or Parliament (Sebok, 2003), for more information please visit the following website: http://www.riksdagen.se/english/work/uppgifter.asp (28 Sep. 2003).

known legal ability and outstanding integrity to the office of JO ('High Ombudsman') (Swanström 2001). The JO was "to act as an agent of justice" to "see after the interests of justice in affairs between the government and its citizens." by overseeing the activities of the government and public administration (The American Heritage Dictionary 2000).

4. Korea and Pakistan

As I began to explore the suggested Islamic roots of ombudsing, I uncovered some intriguing information which fused with the research I had conducted to date, to confirm my suspicion of the occurrence of a *Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes*. I found modern ombudsing/systems schemes with existing self-perceptions that indicate roots other than Sweden as the originator of their country's ombuds concept. My initial response to these perspectives was that modern ombudsing systems/schemes familiar with modern ombuds expressions/theory, and attuned to respective countries' histories, undoubtedly have a keen awareness of respective ombuds concept origins, hence a reliable and trustworthy source of information.

On the Korean "Office of the Investment Ombusman" website, information pertaining to ombuds conceptual origins dates back

to 1402. This history is provided within the office's public response to one of the most frequently asked questions, what is an ombudsman?

> *"The concept of the ombudsman in Korea can be traced back to as early as the 15th century with King Tejong. In 1402, the king set up the "shinmungo" or drum of justice, outside the palace, and anyone who wished to report an injustice could do so by hitting the drum. One of the king's secretaries would then come out and hear the citizen's grievance. Anyone within the community seeking to report an injustice would come to the outside of the palace and hit the drum. This would signal for one of the king's secretaries to come out and hear the citizen's grievance."*
> (Office of the Investment Ombudsman 11 2003)

The second country, which currently recognizes a different root for their present ombuds institution, is Pakistan. The Pakistan website, Pakwatan.com, has published the following information pertaining to the root of the Ombudsman ('Wafaqi Mohatsib').

> "*The Concept Mohtasib (Ombudsman) is an ancient Islamic concept and many Islamic States had established the office of Mohtasib to ensure that no wrong or injustice was done to the citizens. The Prophet of Islam (peace be upon him) introduced the system of `Hisab' or accountability. He as*

well as his companions presented their public and private life and conduct for accountability. Thus a great institution emerged and spread across the globe…" (Pakwatan.com 2003)

5. Recent History

While gathering information about the history of ombuds organizations, I found evidence within the field of newspaper ombudsing that suggests that a *Parallel Socio-Cultural Evolution of Ombudsing* may have occurred in modern times. Takeshi Maezawa's article, "The controversy over the origins and functions of ombudsmanship" addresses a debate pertaining to the "first" newspaper ombudsman scheme (Maezawa 03). The article reveals that The Yomiuri Shimbun Ombudsmen Committee's (Japan) self-perception with respect to its origins dates back to 1951 (prior to the spread of the Swedish ombuds concept). In addition, mention is made of the work of a Japanese journalist, Asahi Shimbun in 1922. Shimbun, inspired by a system called the Bureau of Accuracy and Fair Play (established in New York City in July 1913), decided to set up a committee that would try to "be fair and make everything fair" with regard to the publics concerns with regards to errors being made by newspapers pressed by deadlines (Maezawa, 03). This information reveals that the self-perception of the Japanese includes newspaper ombudsmen history that predates the

ombudsmania that occurred in the late 60's and early 70's. Ombudsmania is a term that was first introduced by Stanley V. Anderson (in Anderson's recollection, Anderson, 2003) in his work Ombudsman Papers: American Experience and Proposals (Anderson, 1969). The term ombudsmania is utilized to refer to a period in ombuds history when the concept began to spread across the globe at a very rapid rate (late 60's, early 70's).

Although preliminary findings indicate that it is quite likely that a *Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* has indeed occurred, the findings are by no means conclusive. The nascent theory is presented as a point of departure. It is intended to spark interest and dialog about the theory, which will hopefully lead to extensive research in the area of the emergence, evolution, and disbursement of the ombuds concept. In addition, the simplification process of the modern ombuds system/scheme associated with the development of *The Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* sets the stage for the development of a second nascent theoretical tool: *The Basic Ombuds Model.*

II. THE BASIC OMBUDS MODEL

1. The Classical Yardstick

In the Spring of 2002, while conducting research pertaining to the ongoing evolution of ombuds categorization, I came across a conference article written by Larry Hill entitled *American Ombudsmen and Others; or, American Ombudsmen and 'Wannabe' Ombudsmen* (Hill 1997). The work was created for Hill's 1997 address delivered at the Spring Meeting of the American Bar Association Section of Administrative Law and Regulatory Practice. Hill is a renowned and respected professor of Political Science that has made a significant contribution to the field of ombudsing as a pioneering ombuds scholar. Ombudsing systems/schemes studied by Hill include: the state of Hawaii (1981); local and national ombuds in Great Britain (1981); urban ombuds in the U.S. (1977); and Sweden, Finland, Denmark, Norway, Great Britain (1971). Hill has published over 25 books and articles pertaining to ombudsing systems/schemes, and has presented some 15 convention papers (Hill, 2003).

In Hill's 1997 convention paper aforementioned, Hill draws from his extensive experience to suggest that unless an ombuds scheme/system possesses specific functional/structural characteristics the scheme/system is not a "real" ombudsing system/scheme and falls into the category of a "wannabe" ombuds. Hill uses "wannabe" synonymous with "quasi", quasi

meaning, “in a manner sense or degree; having some resemblance to” (Dictionary.com 2003).

The use of “real” ombuds has also been equated with “genuine” meaning “actually possessing the alleged or apparent attribute or character”.

The structural characteristics Hill cites can be summarized as: being a functional autonomous separate entity, operational independence of the legislature and the executive, legally established government official, monitoring specialist, administrative experts and professionals, non-partisan, normatively universalistic, client-centered but not anti-administration, popularly accessible and visible, high status institution, have resources extensive enough to perform their mission (Hill 1997).

The functional characteristics Hill defines include the following:

“The institution’s mission is to generate complaints against government administration, to use its extensive powers of investigation in performing a post-decision administrative audit, to form judgments which criticize or vindicate administrators,

and to report publicly its findings and recommendations but not to change administrative decisions" (Hill 1977).

Examples of such systems/schemes include the Swedish Ombudsman, the similar Danish system/scheme, and the New Zealand system/scheme. Such ombudsing systems/schemes are more formerly categorized as "classical" ombuds. "Classical" ombuds are defined, as of July 2003 in the American Bar Association's *Proposed Standards for The Establishment and Operation of Ombuds Offices* (the Standards are presently undergoing revision) as:

"A Classical Ombuds is a part of the legislative branch of government and addresses issues raised by the general public or internally, usually concerning the actions or policies of government entities, individuals or contractors with respect to holding agencies accountable to the public" (American Bar Association 2003)[11]

2. A New Yardstick: The Arts & Economics

[11] For an excellent description of classical ombudsmen please read Dean M. Gottehrer and Michael Hostina's article "Essential Characteristics of a Classical Ombudsman" conveniently located online at the following web address: <http://www.usombudsman.org/References/EssentialCharacteristicsClassicalOmbudsman.htm> (8 Oct. 2003).

While digesting Hill's perspective regarding 'real' and 'wannabe' ombuds, I was taken aback a bit to think that my service as a campus ombuds was being lumped into a 'disgenuine', or 'wannabe' category along with some 45 other different types of ombuds. Nevertheless, it is very difficult to discount a view presented by a master craftsman in the field who has greatly contributed to building the foundation of existing ombuds theory. As I continued to mull over Hill's notion, I sensed that something did not seem complete about the analysis. I had the impression of functions and forms being cast into the disgenuine heap because they could not be corseted into a very specific structure. The thought occurred to me that the classical yardstick Hill uses to separate the "real" from the "wannabe" ombuds might not be the correct measuring stick.

I began to look at the material from a very different perspective than a political scientist. This is not to say that one is better than the other, or more appropriate, but rather, that if one presents a complex system for analysis to two individuals with very different skill sets, with one studying from outside the complex system, and one studying from outside as well as within, (scholar vs. scholar/practitioner) there is a very good chance that the analyses will be quite different. Working as an ombuds one learns to appreciate the value of considering many vantage

points in the course of seeking a clearer understanding of a scenario's totality. It is my sense that there is room and need for evaluating ombudsing systems/schemes by individuals possessing varied skill sets in order to take full advantage of assessing the model from many different perspectives. In essence, it isn't a matter of one view being more appropriate than another, but simply different, flushing out new information which results in expanding the body of knowledge and understanding in relation to the field of ombudsing.

The section of this paper delves into process components inspired by a concept developed while working in an informal think-tank sponsored by Frank K. Kelly's developing "Center for Humanity's Future"[12]. The think tank meets weekly to discuss a gamut of issues in the spirit of an interdisciplinary approach which was in part inspired by Kelly's past work for the Center for Democratic Institutions. From these discussions a thought surfaced that a fair-sized portion of the wisdom, knowledge, and understanding that exists today was developed as a consequence of a period of specialization whereby bodies of knowledge in different fields (math, sciences, physics, political science, economics, arts, etc.) were accumulated. I suggested that perhaps we were

[12] Frank K. Kelly was a speech writer for President Harry Truman, worked for many years in a think tank led by Robert Maynard Hutchins called the "Center for the Study of Democratic Institutions" (Online Archive of California, 2003), and is the Vice President and co-founder of the Nuclear Age Peace Foundation (Nuclear Age Peace Foundation, 2003).

approaching the edge of the envelope with regard to expanding humanity's knowledge base through sole use of these well defined fields. One possible way to push beyond the envelope of current understanding would be to search for the connections between disciplines and create new metaphors/languages to evaluate the impressions of unraveling mystery.

In approaching the process of gaining a deeper understanding of ombuds systems/schemes, my process was influenced by my background as a former educator of the principles of micro and macroeconomics, and years of artistry specializing in innovation. It is this understanding that set the stage for the personal impulse to fuse the creative processes of the arts/economics to bring forth a different understanding of ombuds systems/schemes.

The economics training prompts me to search for little pictures within big pictures, to identify elements associated with the little picture, as well as the big picture, and to identify when something is missing in the analytical mix. In addition, it is natural to identify not only the "what" but to seize an understanding of "why" and "how" through awareness cultivation (heightening one's awareness of the breadth and scope of a precept via diverse information gathering). Cultivating

awareness fosters the ability to understanding how and why the individual components interrelate, crossover, and influences each other. While scrutinizing a complex system I search for the elements/components of the system that can be held ceteris paribus while examining the effects of a varying component. After extensive training in many different artistic mediums, the creative process has grown to include sensing abstractions within one's 'mind's eye' that are interconnected to the multiple layers of consciousness indicative of the human condition abiding within an interconnected cosmos[13]. The abstractions indicate that an impression within mystery is seeking to be unraveled. One steps beyond a respective edge to venture into uncharted, non/linear, domain and engages with new expression. One journey's backward into present time/chartered territory bringing with oneself the physical manifestation of the said expression. One learns to trust, let go, let the project take on a "mind of its own" as the paper takes the ink and/or the breath breathes the movement into being. As the vision formulates, the tools necessary to realize the vision surface and the work are brought into a physical manifestation.

[13] The arts, in my experience, access and work with many layers of the human condition in the creative process, with process being primary, and production secondary. Woven into the creative process are expressions of spirit, soul, mind, body, emotions, analytic, creative, time, space, energy, the Jungian "shadow" , metaphor, myth, dream, collective unconscious, conflict/conflict resolution, "mind's eye" manifestation, "aluna" realm, etc. The spiritual component is influenced by indigenous philosophies that differ from the western notion that social life begins with the "individual". An indigenous view might be expressed a universe of connections, being a part of the web of life, not separate, and individual.

While working with Hill's material an abstract sensation surfaced, indicating that some form was seeking to spring forth from mystery and make itself manifest. The abstraction evolved into snippets of images and sparks of new ideas part of which was fueled by the aforementioned research in the area of ombuds history. One of the notions that surfaced was that the ombudsing system/scheme, although studied in all of its complexity as a classical ombudsing system/scheme, had not been broken down into its fundamental components in order to effectively evaluate the evolution of the modern ombuds concept. The early ombuds pioneers focused on studying the earliest form of the modern ombuds system/scheme termed the 'classical' system/scheme (Swedish, Danish, New Zealand models). In the late sixties and early seventies the ombuds concept underwent a radical diversification process as the concept spread across the globe and began to be adopted outside of government settings. Ombuds scholars were not able to keep up with the flow of information available for analysis associated with the ombudsing systems/schemes utilized in other sectors of society. Consequently, a keen understanding of how the concept disseminated, in addition to exploring the possibility of a *Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* remains to be identified by ombuds scholars. At that time in

history, the classical ombudsing system/scheme received the major focus of study, and it needed to be studied in all of its complexity before the modern ombuds system/scheme could be broken down to its bare bones. At this place in history the focus of pioneering ombuds scholars was on seizing an understanding of "what" exactly an ombudsing system/scheme was, in all of its complexity.

3. The Basic Ombuds Model

Work associated with *The Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes* set the stage for the next step of the analysis-simplification of the ombudsing system/scheme by means of cultivating awareness of what the "quintessential" ombuds form consists of. Drawing from thought cultivated by the pre-history meditation, I identified four fundamental components of an ombudsing system/scheme. Four components which consist of three that can be held 'ceteris paribus[14]', and one, which is a 'variable'. The four fundamental components, which make up the Basic Ombuds Model, consist of the following:

1) The complainant (and the potential of an associated "respondent", or source of complaint)

[14] Ceteris Paribus is defined as "with all factors or things remaining the same" or "all other things being equal" (dictionary.com, 2003). That is to say, that the first three components are assumed the same across all ombuds systems/schemes.

2) The complaint handler (and the potential of an associated “respondent”, or source of complaint)

3) A moral/spiritual tenet such as fair process/ethics/justice

4) An entity/organization/institution

These four components represent the bare bones of an ombudsing system/scheme. Additional important considerations include the system’s association with a community, which exists within a specific region/city/state/country, and the systems association with the family of alternative dispute resolution. That is to say, the context in which an ombudsing system/scheme exists. In more complex analyses the context will undoubtedly have an impact on the expression of ombudsing system/schemes.

4. Illustrative Application: University of California, Santa Barbara (UCSB), Office of the Ombudsman

Following is an illustration of use of the Basic Ombuds Model drawn from an analysis of the campus ombuds office at UCSB. This example represents the “small picture” of a campus ombuds office that exists as a part of, yet separate from the UCSB campus community, and surrounding Santa Barbara environs. This “small picture” of campus ombudsing is a part of the “larger picture” of campus ombudsing within the United States, which in turn is a part of the “bigger picture” of international campus ombudsing. Campus ombuds in turn are a part of the greater

ombudsing community serving the many different sectors of society.

The Four Fundamental Components:

1) Complaint Handler (and the potential of an associated "respondent", or source of complaint)

The UCSB Ombuds Office has three ombuds whose primary function is defined as **complaint handling**: the University Ombuds, the Associate Ombuds, and the Assistant Ombuds.

2) Complainant and the Associated Respondent, Source of the Problem/Complaint

The UCSB Ombuds Office serves the UCSB campus community **handling complaints** of the staff, student, and faculty communities of UCSB. The complainants are the staff, student, and faculty of UCSB.

3) Moral/Spiritual/Ethical tenet

The UCSB Ombuds Guidelines state: "In resolving complaints ombuds advocate for a **fair process** rather than serving as an advocate for a particular individual or a particular outcome". Additionally, the mission statement of the office articulates "the Ombuds serve as independent agents through which **institutional injustices can be rectified** and the **causes of those injustices alleviated**. 'Fair processes and 'rectifying

institutional injustices' represent the moral/spiritual/ethical tenets utilized by the UCSB Ombuds.

4) An institution:

The UCSB Ombuds office is affiliated with, yet separate in essence, from The University of California, Santa Barbara.

In a larger context UCSB exists in the Goleta/Santa Barbara region, with its specific social, political, cultural norms; is a part of the social, political, cultural norms of Southern California; which is a part of the social political cultural norms of the United States. The UCSB Ombuds system/scheme is categorized in the academic ombudsing sector.

5. The Clay of the Concept

I like to think of the clay of the ombuds system/scheme as an amalgamation of the first three components - the complaint handler, the complainant (and the potential of an associated "respondent", or source of complaint), and a moral/spiritual tenet (fair process/ethics/justice). The clay is a substance that is common to all ombuds systems hence a substance that can be held ceteris paribus when considering what happens to the clay when pressed against different institutional molds. The component that is variable (hence the mold) is that of the entity with its own system of organization, sets of rules, regulations,

policies, and laws. For instance, when the clay is pressed into a government setting it molds into a government ombuds system/scheme (setting aside the terms ‘classical’, ‘executive’, ‘municipal’, ‘hybrid’, ‘public’, ‘specialty’, etc. for simplification purposes). When the clay is pressed into an institute of higher learning it sculpts into the form of a campus ombuds system/scheme and its associated theoretical specificity. When the clay is pressed into a prison setting it sculpts into a prison ombuds system with its theoretical specificity. When the clay is pressed into a corporation it sculpts into a corporate ombuds system/scheme, and so on.

The classical ombudsman system/scheme that Hill uses as a mold for evaluating the copious "types" of ombuds, in its bare bones form, is the result of pressing the clay of the ombuds concept into a government mold, more specifically the legislative branch of the government mold which in turn results in the “independent” structural component. My question, at this phase of development of the theory was a question of which comes first; the cart, the horse, the chicken, or the egg? Do functional and structural characteristics make the ombuds/system scheme, or does the simple interaction of the fundamental components of the ombuds/system scheme give rise to the functional and structural features.

My question and foundation for further study became; can one expect the functional and structural considerations to be the same when the clay is pressed against different institutional molds? My educated guess was that the result would be different. I shared this concept with ombuds scholar Stanley V. Anderson. Anderson, well respected within the field of ombuds scholarship, helped to build a foundational understanding of ombudsing. He is considered one of the pioneering ombuds scholars along with Stephan Hurwitz, Henry Abraham, Kenneth Culp Davis, Donald Rowat, Steven Anderman, Henry Abraham, Walter Gellhorn, Bernard Frank, and Larry Hill (to name a few).

6. Mentor Feedback

In an email correspondence Anderson provided the following feedback. I include the feedback in that my continuing education, and development as an ombuds scholars, is not occurring within a traditional academic setting (e.g., doctoral student, professor) but is occurring in the style of the Master Ombuds Scholars/Practitioners providing the mentorship/guidance necessary to create work that is "academically" sound. In that Master Ombuds Scholars/Master Ombuds Practitioners are few, and scattered across the globe, seeking the Master's out for feedback with regard to developing new theory is a must. Stanley V. Anderson is a Master Ombuds scholar, and I include

Stan's opinion in that his evaluation is trustworthy, and yes, when it comes to introducing something new, it helps to have the blessing of the Sages.

> *"Sound, concise and incisive analysis. I think Larry Hill would find it congenial. The Early Gang was not locked in on the Legislative Ombudsman as an exclusive, except for Donald Rowat. I debated Don at the annual meeting of the USAO in Portland, Maine, eight or ten years ago. My fatal thrust was to point out that the original Ombudsman in Sweden, founded several centuries ago and still flourishing, was an Executive Ombudsman. The Legislative Ombudsman was initiated in Sweden in 1809. In Finland, it is still considered a promotion to be elevated from legislative ombudsmen to executive ombudsmen."* (Anderson 2002).

7. Basic Ombuds Model Criticism

a. The Respondent/Source of the Problem

In preliminary conversations with colleagues about the Basic Ombuds Model a very important question emerged pertaining to where the 'respondent' (organizational ombuds terminology) or source of the problem, fits in as a puzzle piece in the Basic Ombuds Model. Initially the Basic Ombuds Model did not include the 'respondent'. By 'respondent' one refers to the flip side of the coin, the other party or parties representing the other perspective of the

complaint. My response, initially, was that they go hand in hand (complainant/respondent) and the ‘respondent’ or ‘source of the problem’ surfaces when the ‘flesh’ is put upon the ‘bones’ of the *Basic Ombuds Model* through application of the *Set of Basic Ombudsing Principles/Considerations* (subject of the next section).

If there is a complainant (A) this carries with it the "story" and within the "story" is the apparent source of the problem, and/or respondent(s) (B). In stating that A is a part of The Basic Ombuds Model, one must acknowledge the potential for the existence of B. For instance, in a campus ombuds setting B most commonly enters the ombuds system/scheme when A initiates action via formulating a complaint that relates to B. In that the ‘respondent’ component of B does not actively surface (or exist) in every case, it is not truly able to be held ‘ceteris paribus’ hence is addressed within the more complex layering of ombudsing systems/schemes. Preliminary analysis, put forth for further consideration, suggests that B is a function of A’s relationship/interaction with the organization/entity type, hence a variant produced by the ‘clay’ of the concept being pressed against the ‘mold’. For instance, when assessing how *The Basic Ombuds Model* differs from institution to institution one might consider how the ‘problem sources’ and/or ‘respondents’ differ. Press the clay into an academic setting and someone complains about a professor/grade. The source of the problem, and/or ‘respondent’ is a professor. Press the clay into a corporate

setting. One does not encounter a professor, but encounters something different. Perhaps someone complains about a poor product design, with the source of the problem, or 'respondent' being the engineer who designed the product.

Once again, the potential existence of a respondent goes hand and hand with the complainant component, and surfaces in the more complex layering of ombuds systems/schemes. Specifically the "process", "complaint type", and "function" elements. These elements are a part of the "flesh" put on the "bones" of the *Basic Ombuds Model* and are elements of *The Set of Basic Ombudsing Principles/Considerations*, which is the subject of the next section. However, because the potential of a respondent or source of the complaint is such an important consideration, for the time being, I've integrated the respondent into the complainant component of The Basic Ombuds Model until further feedback is received from the greater ombuds community with regard to organizing the Basics in such a way.

b. What about impartiality, independence, confidentiality and other fundamental considerations?

Once again, for research purposes, these elements are not expressed in the bare bones of the ombuds model, but appear when the "flesh" is put upon the "bones" of The Basic Ombuds model and are expressed within the "Building Blocks of an Ombuds Practice"

component of the Basic Set of Ombudsing Principles/Considerations. It is my opinion that impartiality, independence, and confidentiality are items that support realization of the ethical/moral tenet of the ombudsing scheme. For instance, if an ombuds is not independent, the office runs the risk of being influenced by the office the ombuds answers to impeding realization of "fair/ethical/just processes". Impartiality, the notion of not taking one side or the other, also supports an ombuds ability to advocate for "fair/ethical/just processes".

III. THE BASIC SET OF OMBUDSING PRINCIPLES/CONSIDERATIONS

The next step in the process of developing the Basic Ombuds Model was to identify the components of the 'big picture' and 'little picture' of ombudsing. That is to say, when pressing the clay of the ombuds concept into different institutional molds, what factors can and ought to be utilized as "measuring sticks" when considering the similarities/differences between the copious types of ombuds, and what sorts of factors put the "flesh" on the "bones" of the Basic Ombuds Model. In combing through existing literature it became evident that although a great deal had been written about ombudsing, existing bits and pieces of theory were scattered throughout the greater body of ombuds scholarship as singular expressions. In order to carry the use of the Basic Ombuds Model forward all of the bits and pieces defined

by first generation ombuds scholars needed to be gathered into a *Basic Set of Ombudsing Principles/Considerations*. A set that comprises the elements one considers when evaluating the effects of the clay of the ombuds concept being pressed into different institutional forms. The *Basic Set of Ombudsing Principles/Considerations* takes the structural and functional considerations utilized by Hill one step further by including additional ombuds theory created thus far by other ombuds scholars. Within this set is the introduction of additional new theory created in response to a personal sense of what is missing in the present theoretical mix[15]. These theoretical elements will be presented and expounded upon within a work entitled "The Nuts & Bolts of Ombuds Theory" (written specifically for campus ombuds). This work-in-progress will be presented at the 2003 California Caucus of College and University Ombuds Annual Conference held at Asilomar Conference Grounds in Pacific Grove, California[16]. Feedback from conference participants will be worked into the paper before the work is completed and submitted for journal publication. Topics covered in this work include the following:

- a basic definition of ombudsing, how to pronounce the word
- etymology and history of the word

[15] Works-in-progress theory integrated into the Basic Set of Ombudsing Principles/Considerations include: The Primary, Secondary, and Tertiary Functions of Campus Ombudsing, "Catch-up" with Ombudsmania: Expanding The Theoretical Base of Ombudsing: A Campus Ombuds Process, Part I

[16] This information comprises is my "first pass" with regard to gathering the scattered bits of theory into a singular set. I consider the following set a "first pass" in that the field is continuing to grow, expand, and define itself, and it is my sense that this set of considerations will undoubtedly expand and contract with further study. Additionally, as the information disseminates to ombuds scholars and ombuds practitioners, and feedback is provided, the set as well as the Model itself could potentially be modified with receipt of additional and/or clarifying information.

- ombuds history
- “types” and “categories” of ombuds
- primary, secondary, tertiary functions of ombudsing (new theory)
- roles of the ombuds
- the building blocks of an ombuds practice (essential characteristics and standards of practice),
- the “power” of the ombuds,
- the “process” of the ombuds (new theory)
- the structural components of ombudsing
- policies, procedures, rules, and guidelines
- “types” of complaints received
- how the ombuds is selected (precedent set by the Swedish model utilized by some scholars to evaluate ombudsing systems/schemes)
- resources and size of office
- annual reports, case studies, and other tools
- protecting confidentiality, ombudsman privilege, model shield laws
- concepts from alternative dispute resolution: listening skills, “getting to yes”,
- continuing education: mediation training, restorative justice training, ombuds conferences, ombudsman readings & resources, liters, professional organizations
- glossary of terms

IV. USE OF THE BASIC OMBUDS MODEL AND SET OF OMBUDSING PRINCIPLES/CONSIDERATIONS

The following section outlines how the *Basic Ombuds Model* and its *Set of Ombudsing Principles/Considerations* is currently being utilized, articulates potential research opportunities in relation to this theory, presents answers without questions, and invites the greater ombuds community to actively participate in refining, developing, and utilizing this theory to advance the field of ombuds studies.

1. Ombuds Categorization

The Model is currently being utilized to assess the categorization of ombuds in order to be of use to scholars and practitioners active in the area of cultivating clarification in ombuds categorization. There is currently not a consensus amongst ombuds and ombuds scholars with regard to who ought to be using the term ombuds, how ombuds ought to be categorized, and what these definitions should be. Work spearheaded by the American Bar Association's (ABA) Section of Administrative Law & Regulatory Practice brings to light this ongoing discussion. By categorization I refer to the existing terminology utilized by the greater ombuds community that groups different types of ombuds in specific categories implying there is a difference between one type of ombuds and another. The existing categorization vocabulary includes: advocate ombuds, classical ombuds, corporate ombuds, executive ombuds, hybrid ombuds, legislative ombuds, mediator ombuds, municipal ombuds, organizational ombuds, private sector ombuds, public sector ombuds, quasi-ombuds, and specialty ombuds[17]

2. *Parallel Socio-Evolution of Ombudsing Systems/Schemes*

[17] For information on existing ombuds categorization please see the Ombudsman's Reading and Resource Room which has a section devoted to categories of ombudsman <http://www.sa.ucsb.edu/ombuds/ResourcesWeblinks/Reading&ResourceRoom/index.asp> (9 Oct. 2003). For information on the ABA's work in relation to ombudsing please visit the ABA's Ombudsman Committee's homepage: <http://www.abanet.org/adminlaw/ombuds/home.html > (9 Oct. 2003)

Preliminary findings indicate that although the Swedish ombudsing system/scheme is seen as the first modern ombuds system/scheme, given the universality of the basic components of an ombudsing system/scheme, the ombuds concept has evolved out of several cultures. Further work needs to be carried out to either confirm or negate the possibility of a *Parallel Socio-Evolution of Ombudsing Systems/Schemes* having occurred, both in ancient, and modern history. Project development is underway for researching the dissemination/evolution of the ombuds concept beginning with the onset of ombudsmania in the early 60's. The intentions of carrying out such research include: bringing the history of ombudsing up to date (an important ombuds educational factor), and to address a popular historical view that has, in part, engendered exclusionary tendencies with regard to who ought be utilizing the term ombuds. I believe this rethinking and reevaluating of ombuds history would serve to strengthen ombuds practices by fostering a sense of community that is inclusive rather than exclusive.

Project considerations include:

- identification of existing ombudsing systems/schemes within the global community through professional organization membership

- Developing the appropriate questions to track the dissemination/evolution of the modern ombudsing system/scheme such as: when the institution was established, who were the founders, how did the idea develop, what information informed the process of establishing the office, was there any pre-existing knowledge of ombudsing systems/schemes.

3) *Ombuds Diversification/Variegation*

The *Basic Ombuds Model* and *The Set of Ombudsing Consideration/Principles* can be utilized to create in-depth analyses of how the clay of the ombuds concept, when pressed against varied institutional forms, results in variations on the ombudsing theme. In order to carry out such a study Ombuds are organized by "entity type" organized into appropriate sectors. These sectors have been developed through work being carried out in the area of ombuds categorization. An inventory was taken of existing "types" of ombuds uncovering approximately 45 different uses of the title ombuds in relation to an organization. These "types" were organized as groupings of similar types of institutions into sectors. With feedback from the Ombuds community the categorization will undoubtedly grow and evolve, but for illustrative purposes, the following sectors are utilized.

Ombuds Sector Categories[18] include:

Academic (AC)

Business/Corporate (BUS)

Government (GOV)

Communications (COM)

Law Enforcement/Homeland Security (LE/HS)

Health Care (includes long term care) (HC)

Special Interests, or One of a Kind. (SI)

An in-depth analysis of ombuds diversification could begin with conducting single studies of ombuds systems/schemes from each sector to gather the preliminary information for research expansion. Appendix A begins this process with a single office study of the University of California, at Santa Barbara's Ombuds office. Included in the preliminary studies would be an analysis of a 'classical' (CL) ombuds system/scheme. Information gathered from single studies could serve as the foundation for formulating more extensive research within the different sectors.

Note: This work does not imply that all ombuds models evolved from the classical system/scheme, but merely uses the most widely studied ombudsing system/scheme as a foundation for comparison contrast, and to work toward alleviating exclusionary

[18] These sector categories were created as a by-product of research associated with the history of ombuds categorization.

tendencies which began in the 1970's of ombudsing systems/schemes that did not fit the classical mold. The purpose is to cultivate an awareness of how systems differ when the clay of the ombuds concept is pressed against varied institutional molds. The following Table provides a visual aide for organizing the studies, which illustrates through juxtaposition how the study will enable ombuds and ombuds scholars (once they've filled in the blanks to better understand the nature of ombudsing systems/schemes within sectors as well as across sectors.

SECTOR	CL	AC	BUS	GOV	COM	LE/HS	HC	SPEC
Four Components								
Cultural Container								
History								
Ombuds Selection								
Office Size/Resources								
Functions								
Structure								
Roles								
Building Blocks								
"Power"								
"Process"								
Policies, Procedures, Rules,								
Complaint Types								
Annual reports, case studies, and other								

tools								
professional organizations/ educational forums								
Miscellaneous								

Academic (AC) Business/Corporate (BUS) Government (GOV) Communications (COM) Law Enforcement/Homeland Security (LE/HS) Health Care (includes long term care) (HC) Special Interests, or One of a Kind. (SI)

Appendix A includes analysis of a single campus ombuds office.

4) Questions Without Answers: Further Research Considerations

Following is a series of assessment questions that surfaced as a consequence of developing *The Basic Ombuds Model* and the *Set of Ombudsing Principles/Considerations* that, once answered, have the potential to foster a deeper understanding of ombudsing systems/schemes in their variegated forms.

1) "What are the specific forces in various institutional settings (e.g., higher education, prison, corporate, etc.) that tend to cause ombuds to operate in predictably similar ways to other ombuds in those sectors and in predictably different ways from ombuds in other sectors?" This question is posed by University of Colorado at Boulder ombuds Tom Sebok (Sebok, 2003).

2) What determines the “types” of complaints received?

The “type” of entity?

The community the entity serves?

The culture of the community served?

The policies, procedures, rules, and guidelines associated with the entity?

The policies, procedures, rules, and guidelines associated with the community served?

The jurisdiction defined by the ombudsing system/scheme?

Problematic areas within the entity or area ombuds handle complaints for?

Cultural changes?

The emotional, spiritual, mental, physical health of the complainant?

The individuality of the complainant: personality types, conflict management styles?

History, family of origin, etc.?

Power structures within the entity served?

Scarce resources within the entity served?

Information channels within the entity served?

3) What are the complainants’ perceptions of the functions/roles of the ombuds office (Sebok, 2003)? What is the reputation of the ombuds office (Sebok, 2003?)

4) What “types” of complaints are universal to all ombuds systems, what “types” of complaints are common within sectors, what “types” of complaints are specific to a single entity, if any?

5) What determines the “process” of the Ombuds? How does the educational/life/work experience influence an ombuds process? What are the similarities/differences in ombuds processes in similar institution types? What are the similarities/differences in ombuds process across sectors and within sectors? What type of education would enable ombuds to evaluate and refine respective processes?

6) What determines the “power” of the Ombuds? In different institutional settings, what different types of "power" are evident? What are the subtle variations in "power" amongst ombuds working for a particular type of institution, and what gives rise to these variations?

7) How does the cultural container in which the ombuds office exists affect the *Basic Ombuds Model* and *The Set of Ombudsing Principles/Considerations*?

8) Which entities, when, and where, were providing ombudsing services (exhibited characteristics of the Basic Ombuds Model)

under a different title without knowledge of the existence of modern ombudsing systems/schemes? Did these entities develop essential characteristics similar to ombudsing systems/schemes apprised and knowledgeable about the modern ombuds system/scheme. Do the findings confirm *The Parallel Socio-Cultural Evolution of Ombudsing Systems/Schemes?*

9) In which sectors has the primary function of complaint handling expanded, and what are the contributing factors? What functional characteristics are common across all sectors? What are the secondary and tertiary functions of complaint handling in different institutional settings? What are the subtle variations on this theme amongst ombuds working in similar institutional settings, and what gives rise to these subtle variations?

10) Ombudsmen, in carrying out the basic function of complaint handling may adopt different roles. What roles are manifest in different institutional settings? What are the subtle variations in roles amongst common types of institutions and what gives rise to these subtle variations? What factors cause an ombuds to play different roles?

11) What essential characteristics, standards of practice are manifest/practiced in different institution of ombudsing system/schemes?

11) What are the policies, procedures, rules and guidelines that are used in the complaint handler's process in different institutions, what are the subtle variations, and what gives rise to these variations?

12) How do the structural characteristics vary among different institutions? What are the subtle variations in "structural" characteristics in ombudsing/systems of the same institutional type and what gives rise to these variations?

V. CONCLUSION

Publication of this work in its infancy form invokes an open invitation for respected and knowledgeable colleagues to offer the guidance necessary to further develop this work. In that I utilize a specific skill set when working, researching, and writing; wisdom indicates that feedback must be integrated into the theoretical development process in order for the work to realize its fullest potential.

It is my hope, that development of these ideas will enable the greater ombuds community to realize a specific vision. A vision that holds a

future realized by scholars, scholar/practitioners, practitioners, and curious students committing to conducting the research necessary to develop a unifying body of ombuds theory. A body of knowledge suited for teaching in the gamut of educational settings that results in eradicating one of the most frequently asked questions" "what is an ombuds?"

APPENDIX A

ILLUSTRATIVE APPLICATION: THE UNIVERSITY OF CALIFORNIA, SANTA BARBARA (UCSB), OFFICE OF THE OMBUDSMAN

In order to illustrate how the Set of Ombudsing Principles/Considerations can be used in conjunction with The Basic Ombuds Model I've applied the principles to the UCSB ombuds system/scheme. This *Set of Ombudsing Principles/Considerations* will be discussed in greater detail in the work *The Nuts and Bolts of Ombuds Theory: A Guide for the New Campus Ombuds.* By conducting analyses of other campus ombuds offices using these parameters a researcher would be able to evaluate the information and present results which would clearly and thoroughly articulate the nature of campus ombudsing systems/schemes. By repeating the research process for ombuds working in other types of institutions, scholars would be able to clearly articulate the nature of ombudsing systems/schemes for different sectors of ombudsing.

Important questions that surface as a by-product of consultation with ombuds practitioner/scholar Tom Sebok, that have not been integrated into this analysis include:

1) What specific things about the kind of institution in which the office exists will affect how the office functions?
2) Will these things cause it to function in ways that are similar to ombuds offices in similar institutions?
3) Will these things cause it to function in ways that are different from offices in different types of institutions?

a. UCSB ombuds system/scheme history

Obtaining histories of individual ombuds systems/schemes provides valuable information with regard to the dissemination of the ombuds concept. The UCSB Ombuds Office was established in 1970 by a sense motion of the Academic Senate. The office was established at a time of social unrest and was, in part, developed by request of members of the UCSB student body. Members of the UCSB community were familiar with the ombuds concept in that it had become a focus of study for several scholars working within the political science department. The models being studied at that time by Stanley V. Anderson, Alan Wyner, and John Moore were “classical” and “executive” systems/schemes (Wyner 1973).

b. How the Ombuds is Selected/Ombuds Qualifications

(precedent set by the Swedish model). In 1809, when Swedish

King Gustavus Aldophus was dethroned, constitutional reform took place resulting in a new constitution "based on the principle of balance of power between King and Riksdag". The constitution allowed for the Ricksdag to elect a man of known legal ability and outstanding integrity to the office of JO ('High Ombudsman') (Swanstrom 2001). Although an ombuds institution had been in existence one hundred years prior, it is this particular system that became the model for many of the modern ombuds models and this initial decision has set a precedent for the ombuds industry as indicated in the American Bar Association's (ABA) Standards of Practice. The ABA standards clearly indicate that:

"An ombuds should be a person of recognized knowledge, judgment, objectivity, and integrity. The establishing entity should provide the ombuds with relevant education and the periodic updating of the ombud's qualifications" (ABA)

Choosing individuals of integrity for the position of Ombuds is a tradition at UCSB. The first UCSB University Ombuds (Dr. Geoffrey Wallace, still employed), although not a man of "known" legal ability, was at the time known for his "outstanding integrity" and involvement in social/civil issues at a time of social unrest on the UCSB campus. A selection committee out of a pool of some 100 applicants chose Dr. Wallace.

The proposal adopted by a sense of motion on February 12, 1970 by the UCSB Academic Senate, Section D, states the following pertaining to the selection of the Ombuds:

“Appointment and removal of the Ombudsman will be by the Chancellor, Chairman of the Academic Senate, The Associated Students Legislative Council and the Graduate Students Association upon the recommendation of at least two-thirds vote of the Advisory Council. In addition, the recommendation for appointment against removal shall require at least one vote for the candidate from each of the constituent groups of the Advisory Council, namely students (meaning graduates and undergraduates together), faculty and administration. Recruitment and selection of the Ombudsman by the Advisory Council shall be conducted in a manner that will assure public confidence in the independence, impartiality, integrity, and status of the Ombudsman.” (Appendix B, February 12, 1970: Proposal to establish the Office of the Ombudsman, adopted as a sense motion of the Santa Barbara Division of the Academic Senate).

Inquiring within the UCSB Human Resources department, UCSB Ombuds positions are viewed as staff positions. Selection is

handled in the same fashion that other staff positions are handled. Open positions are advertised in profession journals. The Chancellor's office appoints a search committee and open positions are chosen from a pool of qualified candidates as defined above.

c. Resources and Size of Office

The UCSB Ombuds Office is presently funded for a full-time *University Ombuds* position, an *Associate Ombuds* at 60% time, and a full-time *Assistant to the Ombuds* position (which is currently classified as 30% *Assistant Ombuds,* and 70% *Assistant to the Ombuds*) The four room office is located in the "Student Affairs and Administrative Building" and is fully equipped with the necessary equipment to effectively manage an ombuds office (computers, printers, fax machine, copier machine, filing systems, storage, furniture, etc.). In addition to budget for staff the office has a modest budget that covers supplies and expenses, work-study student assistance, and some funding for travel, training, and research.

d. Structural Components

As previously indicated, The UCSB Ombuds Office was established in 1970 by a sense motion of the Academic Senate. The office is accountable to the Ombuds Advisory Committee.

The UCSB Ombuds Statute defines the Ombuds Advisory Council as follows:

"There is established a committee of seven members to advise the Ombudsman, at his discretion. This committee will have two members appointed by the Academic Senate, one of whom should be non-tenure, two members selected by the Administration, and three student members of which two will be appointed by the Associated Students and one by the Graduate Students Association". The Ombuds Advisory Committee advises the University Ombudsman at his/her discretion. Additionally, as previously stated, the Ombuds Advisory Committee makes recommendations for appointment and against removal of the University Ombuds. The University Ombuds meets bi-annually with the Executive Vice Chancellor to discuss office activities. The Executive Vice Chancellor approves the UCSB Ombuds office budget changes, and authorizes travel requests. The organization chart associated with the Ombuds office can be viewed online at the following site: <http://www.evc.ucsb.edu/evc/org_chart/> (11 July 2003).

Current classification of positions held in the office include:

University Ombuds as "University Ombuds" (100%)

Associate Ombuds as “Student Affairs Officer V” (60%)

Assistant Ombuds as “Student Affairs Officer II” (30%)

Assistant to the Ombuds as “Administrative Assistant I” (70%)

A more complete structural analysis would include “job descriptions”. In that the UCSB ombuds job descriptions are quite lengthy, and detailed, it is beyond the scope of this paper to present job descriptions within this work.

Borrowing from the work of Larry Hill, structural characteristics that the UCSB Ombuds Office shares with the classical model include:

“Being a functional autonomous separate entity,

Monitoring specialist,

Administrative experts and professionals,

Non-partisan,

Client-centered but not anti-administration,

Popularly accessible and visible,

High status institution,

Have resources extensive enough to perform their mission” (Hill, 1997)

Although not structurally independent, the UCSB Ombuds Statute requires that “recruitment and selection of the Ombudsman by the Advisory Council be conducted in a manner that will assure public confidence in the **independence**, impartiality, integrity, and status of the Ombudsman.” thereby defining functional independence.

The mission of the UCSB Ombuds office is stated as follows:

“UCSB's Ombuds serve as independent agents to improve the communication between individuals and the institution, and to provide avenues through which possible institutional injustices can be rectified and the causes of those injustices alleviated. More specifically, this includes receiving complaints, investigating and taking appropriate action (e.g., counseling, negotiating, and persuading). In such ways, the Ombuds assist in making the institution less impersonal, more equitable and flexible, and help the individual find a significant role in relation to it. The Ombuds Office serves the entire University population it is available to students, staff, and faculty. The functions of the Office are (1) to redress individual grievances and complaints; (2) to prevent recurrence of patterns of complaints; (3) to increase responsiveness of the institution; (4) to protect officers of instruction and administration from unfounded complaints; (5) to

identify undesirable procedures and practices; (6) to relieve complaint-handling burden from other agencies; and (7) to educate and inform about the nature of higher education."

The UCSB Ombuds Office is made visible by the following means:

- Sexual Harassment Policy

"Many complaints of alleged sexual harassment may be satisfactorily handled through such channels as the work supervisor, the chair of an academic department, the dean of a college, The Employee Relations Officer, an **Ombudsman**, the Affirmative Action Coordinator, the Student discrimination officer in the Office of the Vice Chancellor Student Affairs, and Designated Contact Persons" (University of California, Santa Barbara, 1993).

- Faculty Code of Conduct

"Informal complaints of violations of the Faculty Code of Conduct may be received by the following Campus officers: for any complaint, the chair of the relevant department, the dean or provost of the relevant college, and the **Office of the Ombudsman**…" (UCSB Academic Senate, 1988).

- Description of the office in written literature, and on websites including, but not limited to:

  class schedules,

UCSB Campus Directory,

Ombuds Office Website,

UCSB General Catalog,

UCSB Gauchonet website, “Counseling Services” listing,

UCSB College of Letters and Science website, “Sources of College Advice and Support” listing,

UCSB Human Resources website, “Campus Programs” listings,

UCSB In The Community website,

UCSB A-Z directory webpage,

UCSB Grad Division website, “Helping Hands” listing

UCSB Student Handbook, “Diversity Resources and Services” listing

UCSB Graduate Student Association website, “Campus Committees” listing

e. Functional Components of Ombudsing: Primary, Secondary, and Tertiary functions

Primary and Secondary Functions are ombudsing functions associated with the entity served. Primary functions are functions that are commonly found in the greater ombudsing community, such as complaint handling, creation of annual reports/updates, and creation of case studies. Secondary functions are the results of the evolutionary process of the

ombudsing concept. The expansion of the basic function if complaint handling that results when the clay of the ombuds concept is pressed into a particular institutional mold, as well as the response to advances in the field of conflict resolution/management, and alternative dispute resolution. Tertiary Ombuds Functions are ombudsing functions associated with activity outside of the entity served, and are also associated with the evolution of the modern ombuds concept.

A. UCSB Ombuds primary functions include:

- Independent agents providing, informal, confidential, impartial complaint handling services.
- preparation of reports, case studies; recommendations

B. UCSB Ombuds secondary functions include:

- creation, direction, facilitation of The Campus Conciliation Council:

  "The Campus Conciliation Council (CCC) is comprised of approximately 40 members of the UCSB campus community that provide services to reduce or resolve conflict (mediation, counseling, conflict resolution skills training, ombudsing, restorative justice, facilitation, law). The group meets quarterly to discuss respective programs, new developments, changes within existing

programs, resource availability, educational opportunities, and advances in the field of conflict resolution" (Kelly, 2002)

- participation in the UCSB Restorative Justice Project
- revitalization of the UCSB Ombuds Mediation Program

C. UCSB Ombuds tertiary functions include:

- Conducting research, and writing for the California Caucus of College and University Ombuds (CCCUO) Journal, as well as other professional publications.
- convening, co-convening, participation in the annual CCCUO conference
- Ombuds research projects, and expansion of UCSB ombuds office website as an educational resource for the general public.

F. The Roles of the Ombuds

The UCSB Campus Ombuds play many roles while fulfilling their primary, secondary, and tertiary functions. Roles are representative of the many different hats an ombuds wears in the course of carrying out his/her day to day ombuds functions. These campus ombuds roles have been written about and identified by Marsha Wagner, Tom Sebok, and Stanley V. Anderson. Some of these roles include: coach, mediator,

counselor/therapist, educator, change agent, reformer, remedial role, playing field leveler, information disseminator, exculpatory, and investigator. For the UCSB Ombuds Office I would add the roles of restorative justice coordinator/facilitator, fair process/ethic/justice advocate, social worker, system glitch plumber, crisis coordinator, conference organizer, conference educator, role model/mentor, facilitator, supervisor, researcher, legal process educator, reasoned persuader, "safe/comfort space" designer, and visionary.

G. Building Blocks of the Ombuds Practice

The work of ombuds scholars, ombuds practitioners, and the American Bar Association has resulted in the creation of "essential characteristics" and "Standards of Practice" for Ombuds. Within these works the *Building Blocks* of the UCSB Campus Ombuds. These *Building Blocks* create the cornerstones of the UCSB campus ombuds practice.

In an abbreviated form, the cornerstones include:

- Informality
- Impartiality
- Confidentiality
- Independence
- Advocate for Fair/ethical/just processes/outcomes/solutions

Existing Standards of Practice include:

The American Bar Association Section of Administration Law and Regulatory Practice Section of Business Law Section of Dispute Resolution

Standards of Practice

http://www.abanet.org/adminlaw/ombuds/2003_proposed_standards.doc

University and College Ombuds Association (UCOA)

Standards of Practice

http://www.colorado.edu/Ombuds/UCOA/SOP.html

(14 Feb. 2003)

The Ombuds Association (TOA)

Code of Ethics/Standards of Practice

http://www.ombuds-toa.org/code_of_ethics.htm (14 Feb. 2003)

United States Ombudsman Association (USOA)

Draft Governmental Ombudsman Standards

http://www.usombudsman.org/DraftSTANDARDS.doc

H. "Power" of the UCSB Campus Ombuds

UCSB Ombuds have the power to investigate, use the power of reasoned persuasion, and can employ the power of publication to give criticism, or make recommendations in the Ombuds Office Reports/Updates.

I. Process of the UCSB Campus Ombuds

Defining ombuds processes is in its infancy stages. Following are the steps that have been identified in the Campus Ombuds Process that will become the foundation for further research. The concept is fully developed in the work “A Campus Ombuds Process” (Kelly, 2002). The components of the process identified include:

Initial contact

Log in of client

Intake interview

Client preparation

Ombuds preparation

First meeting

Confidentiality agreement

Information gathering

Support and feedback

Education

Brainstorming

Clarification of client goals

Strategy development

Implementation

Ombuds steps

Client steps

Conflict/problem/complaint resolved

Closure

Follow-up

Thank-you

Reflection

Files destroyed.

It is important to note that the UCSB Campus Ombuds Process is not necessarily a linear process with each complainant going through the steps of the process from beginning to end. In addition, the complainant might exit the process after initial contact, or at many other steps within the process (Kelly 2003).

J. Policies, procedures, rules, and guidelines associated with the model

In the course of complaint handling the following UC policies, rules, guidelines have been an integral part in the complaint handling process.

- UCSB Sexual Harassment Policy

- UCSB Academic Senate Faculty Code of Conduct
- UCSB policies, procedures, guidelines for formal grievance processes
- Academic Dishonesty Policy
- Student Disciplinary Policy
- UCSB College of Letters and Science petitions: adding and dropping classes, retroactive ads, retroactive withdrawals, etc.
- UCSB Teaching Assistant Rights and Resources
- UCSB Campus Regulations Applying to Campus Activities, Organizations, and Students
- UCSB Human Resources Personnel Policies for Staff Members
- UCSB Academic Personnel Procedures
- UC University Wide Policies and Procedures
- University of California Policies Pertaining to Research
- Whistleblower Protection Policy
- Union Contracts
- UCSB Care Team: Values of Our Community (informal civility document)

In addition, in the course of complaint handling, our office provides education with regard to certain legal processes/rights by apprising complainants of pertinent literature. Some of these items include:

- Small Claims Court Procedures

- Information pertaining to Court Processes in relation to criminal/traffic charges (DUI, misdemeanors, battery, theft, drunk in public, disturbing the peace, other)
- Landlord/Tenant Rights
- Habitability Repair and Deduct Procedures

k. "Types" of complaints received

Following is a list of some of the different types of complaints handled by the UCSB Ombuds office. Complainant community categorizes the complaint types. In order to more fully illustrate complaint types associated case studies would need to be created. The UCSB Ombuds has found that although complaints might be of similar types, each case is so unique that they seem one of a kind.

Students

- grade disputes
- academic misconduct
- landlord/tenant relations
- professor/student relations
- student/teaching assistant relations
- faculty code of conduct violations
- disability issues
- crisis management
- accidents/personal injury

- administrative glitches
- student/student relations
- sexual harassment
- restorative justice process
- law enforcement
- graduate student concerns (intellectual property rights, publication issues, advisor/student relations, graduate student attrition rates, etc)
- discrimination based on race, sex, disability, race, age, religion, sexual orientation

Staff

- Disciplinary actions
- management/employee relations
- changes in departmental structure, rules, policies
- bullying & harassment
- promotion/demotion
- reclassification
- work environment
- discrimination
- disability issues

Faculty

- tenure and promotion issues
- disciplinary actions
- violation of the faculty code of conduct

- intradepartmental conflicts
- management service officer/faculty relations
- faculty/undergraduate student relations
- faculty/graduate student relations
- intellectual property rights
- publication issues
- discrimination

L. Annual reports, Case Studies, and other Tools

In the past the UCSB Ombuds office has developed reports, and like many campus ombuds, has not created case studies, redacted for confidentiality for use in reports. The office is presently revitalizing the creation and use of reports in form of Ombuds Office Updates. In addition, the office will begin to create case studies for use in Ombuds Office Updates, for presentation at professional conferences, and to contribute to the Ombuds Case Study Project.

M. Professional organizations/educational forums

The UCSB Ombuds Office is most closely affiliated with the California Caucus of College and University Ombuds (CCCUO) in that the University Ombuds, Dr. Geoffrey Wallace, is one of the co-founders of this organization. Office Ombuds, are active participants in CCCUO activities including participation,

convening, and presentation at the annual CCCUO conference, as well as writing for the CCCUO professional ombuds journal. Additionally, Dr. Geoffrey Wallace has been a mentor to many ombuds over the course of a 34-year tenure at UCSB. Budget as well as time constraints do not allow UCSB Ombuds to participate in more than one conference per year; hence, the office is not actively involved in conferences offered by other professional ombuds organizations. However, communication through Listservs associated with other professional ombuds organizations enable UCSB Ombuds to receive (and give) guidance, support, and feedback to ombuds that are actively involved in professional organizations other than CCCUO. Ombudsing system/scheme involvement in professional organizations provides valuable assessment information. Networking, mentoring, resource provision, and educational opportunities, provided by professional ombuds organization play an important role in informing the ombuds practice. In turn the "process", "role", "function", and "building blocks" components of an ombudsing system/scheme could be affected. Our office has provided information to several organizations seeking to develop campus ombuds offices, which might influence the structural component of the ombudsing system/scheme.

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